

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6417 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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GUMARATI MARITIME BOARD

Versus

BHANU MENAND ODEDARA

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Appearance:

MS SEJAL K MANDAVIA for Petitioner

MR YS LAKHANI for Respondent No. 1

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CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 21/09/96

ORAL JUDGEMENT

Rule. The learned counsel who appears for the respondent waives service of the Rule. At the request of both the sides, the matter is taken up for final disposal.

The grievance of the petitioner-Maritime Board is that the impugned award dated 2.4.1996 came to be passed

as the petitioner was not properly represented by their counsel despite clear instructions to the counsel. It appears that an advocate was engaged by the petitioner but no reply was filed nor any documents were produced. There was also no cross-examination of the respondent, who was examined. Having regard to all the relevant aspects, both the sides have, through their respective counsel, agreed that the matter may be remanded to the Labour Court for deciding it afresh after giving an opportunity of hearing to the petitioner and that, in the meantime, the respondent-employee will be forthwith reinstated in service and, if work of Mukkadam is not available, then he will be given other work carrying same wages. This arrangement will be without prejudice to the contentions that both the parties raise before the Labour Court and will be subject to the final outcome of the Reference. The impugned award is accordingly set aside with a direction that the respondent-employee will be reinstated forthwith as Mukkadam or in other available capacity wherein he will be paid same wages as he would have been entitled to as a Mukkadam. The matter is remanded to the Labour Court for fresh decision after giving an opportunity of hearing to the petitioner. The reinstatement of the respondent-employee will be subject to the outcome of the Reference, which will be disposed by the Labour Court within the outer limit of four months from the date of the receipt of this order by the Labour Court. Both the sides will be free to lead further evidence and to raise their own contentions before the Labour Court, which shall be considered by the Labour Court. Rule is made absolute accordingly. Costs to be paid by the petitioner to the respondent, quantified at Rs.1000/-.

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